

Nicklos Rosenbloom,) Case No. 0:09-CV-1582 (DWF/SRN)
)
Plaintiff,)
)
vs.) **PLAINTIFF’S FIRST**
) **SUPPLEMENTAL AND**
) **AMENDED COMPLAINT**
) **(JURY TRIAL DEMANDED)**
General Nutrition Center, Inc.,)
a/k/a General Nutrition Corporation;)
Dallas Henry; and)
Shane Von Behren,)
)
Defendants.)

1. Plaintiff is and at all times herein mentioned was a resident of the County of Hennepin, State of Minnesota.
2. Upon information and belief, Defendant General Nutrition Center, Inc., also known as General Nutrition Corporation, is a Pennsylvania corporation ("GNC"). Defendant is and at all times herein mentioned an entity doing business in the State of Minnesota and an employer within the meaning of Minnesota Statutes Chapter 363A and Title VII of the Civil Rights Act of 1964 as amended. At the dates and times alleged herein, Defendant operated retail nutrition outlets in Hennepin County, Minnesota, including at the Minneapolis City Center and other locations. Defendant Shane Von Behrens and Dallas Henry are individuals and former or current supervisory employees of Defendant GNC at their stores located in the Minneapolis-St. Paul metropolitan area. They had supervisory responsibility over Plaintiff during the dates of Plaintiff's employment. Defendant GNC owed a duty to Plaintiff to employ supervisory employees

who would not harass Plaintiff, violate protected rights, or cause him emotional distress.

3. Plaintiff is an African-American male who identifies himself as gay in his sexual orientation or affectional preference. Plaintiff is an African-American male who has a visual disability; therefore, he is a protected class person. Plaintiff is also disabled because he has visual disabilities that affect major life activities as defined by the American s with Disabilities Act of 1990 (ADA). Plaintiff was employed by Defendant from November 2001 to August of 2005.

4. While employed at the Defendant's stores, including the City Center Store in Minneapolis, Minnesota, Defendant's supervisory employees, including Shane VonBehren and Dallas Henry subjected Plaintiff to harassing sexual comments, intended to be same sex harassment and/or denigrating comments based on his sexual orientation. These comments were pervasive and continuing and altered the terms and conditions of Plaintiff's employment. Plaintiff Rosenbloom was treated in a differential and disparate fashion because of his sexual orientation, which is gay.

5. Moreover, Plaintiff was improperly demoted after complaining about Defendants failure to accommodate his disability. Specifically, Plaintiff asked Defendants to provide a reasonable accommodation based on his visual disability and partial blindness while carrying out his job as a Store manager from 2002 to 2005, including providing appropriate software, tinted screens, and other computer screen devices to enable him to read prices and store codes. Defendants refused to reasonably accommodate Plaintiff in violation of the ADA.

6. Moreover, when Plaintiff initially complained about the discriminatory and hostile treatment of supervisor VonBehren, Defendants improperly and retaliatorily

demoted him from Manager to Assistant Manager and transferred to the City Center Store where he still was not properly accommodated.

7. Upon information and belief Plaintiff alleges that Defendant GNC negligently failed to properly investigate the backgrounds of defendants Henry and Von Behrens prior to hiring them to supervise Plaintiff.

8. Upon information and belief Plaintiff alleges that Defendant GNC negligently failed to properly supervise and train defendants Henry and Von Behrens prior to hiring them to supervise Plaintiff and during the time they supervised Plaintiff.

9. Upon information and belief Plaintiff alleges that Defendant GNC negligently failed to properly discharge, terminate, or demote defendants Henry and Von Behrens during the time they supervised Plaintiff, thus permitting those Defendants to engage in harassing and abusive conduct with respect to Plaintiff.

10. Plaintiff further asserts that Defendant GNC recklessly and/or negligently engaged in a long term pattern of harassment of Plaintiff causing Plaintiff to suffer severe psychological and emotional distress.

11. Plaintiff also asserts that he was given a demotion which was not only in retaliation for his complaints, but also based in part based on his race and disability. Plaintiff submitted a timely charge to the Minneapolis Human Rights Department and the EEOC, which issued its determination on April 17, 2009.

12. Plaintiff was ultimately terminated from his employment with Defendant in violation of Title 42 United States Code Section 1981, including for opposing a discriminatory practice and/or on the basis of race or color.

13. Wherefore, as a direct and proximate cause of Defendants illegal, tortious and

discriminatory conduct, in violation of Title VII, the Americans with Disabilities Act of 1990, the Minneapolis Civil Rights Ordinance and Title 42 United States Code Section 1981, Plaintiff has suffered emotional damages and distress, loss of wages, loss of benefits and other damages and harm.

WHEREFORE, Plaintiff prays for a judgment against all defendants in the sum in excess of \$75,000.00 together with statutory damages, attorneys' fees, with his costs and disbursements herein. Plaintiff seeks any available punitive damages and will move for that relief as required by law or statute. Plaintiff demands a jury trial.

Dated: This ____ day of September, 2009.

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